HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 441 OF 2004.

The State of Maharashtra. ...Petitioner

V/s.

Pramod Purshottam Sathe. ...Respondent

Shri A.S.Gadkari, APP for applicant.

Shri Harshal Bhadbhade i/b Shri V.T.Tulpule, for respondent.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 6, 2005

P.C. :-

1. Heard the counsel for the parties.

2. Rule. Rule made returnable forthwith.

3. Mr. Harshal Bhadbhade waives notice for the respondent.

4. As short question is involved, the application is taken up for final hearing forthwith, by consent.

5. The respondent was arrested for the offence which is being tried by the Sessions court, being Sessions

case No.241 of 2003, for offence punishable under section 302, 437 r/w 34 of the Indian Penal Code and under section 3 and 25 of Indian Arms Act. The respondent has been discharged by the order passed by the Additional Sessions Judge, Pune dated 6th July, 2004 for the reasons recorded in that order which is the subject matter of challenge in the present revision application.

6. It is not necessary to go into correctness of the view taken by the trial court, which is mentioned in the impugned order, for the simple reason that the prosecution has now filed further chargesheet before the trial court with the permission of the trial court under section 173(8) of the Criminal Procedure Code. Fresh material has been placed on record alongwith the said chargesheet to indicate the complicity of the respondent in the commission of the offence.

7. As fresh evidence is brought on record in the further chargesheet filed by the prosecution to indicate complicity of the applicant and the applicant has been shown as accused, in my opinion, without going into the correctness of the view, expressed by the trial court in the impugned order and keeping the questions raised in the present revision application at

the instance of the prosecution open, the parties can be relegated before the trial court.

8. In case, the respondent files a fresh application for discharge, the same will be considered on its own merit in accordance with the law and if the matter is required to be brought before this court at the instance of prosecution, at the relevant time, it will be open for the State to raise contentions pressed in this revision application for questioning correctness of the order which is impugned in this Revision application. That course will meet the ends of justice.

9. Revision Application is accordingly, disposed of keeping all the questions raised herein open to be agitated as and when occasion arises.